

ORDINANCE NO. 49-683

OF

THE

CITY OF WICHITA, KANSAS

AUTHORIZING AMENDMENTS TO:

\$12,750,000

CITY OF WICHITA, KANSAS

TAXABLE HEALTH CARE FACILITY REVENUE BONDS

SERIES IX, 2013

(CORNERSTONE ASSISTED LIVING, INC.)

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(Published in *The Wichita Eagle* on April 25, 2014)

ORDINANCE NO. 49-683

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN THE CITY AND CORNERSTONE ASSISTED LIVING, INC.; A FIRST AMENDMENT TO TRUST INDENTURE BY AND BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE; APPROVING THE CONVEYANCE OF CERTAIN VACANT, UNIMPROVED LAND FINANCED WITH THE PROCEEDS OF REVENUE BONDS OF THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY OF (1) A QUIT CLAIM DEED, AND (2) A PARTIAL RELEASE OF LEASE.

WHEREAS, the City of Wichita, Kansas (the “Issuer”) has previously authorized and issued its Taxable Health Care Facility Revenue Bonds, Series IX, 2013 (Cornerstone Assisted Living, Inc.), in the original aggregate principal amount of \$12,750,000 (the “Bonds”), for the purpose of purchasing, acquiring, constructing, equipping, installing, and furnishing an 80-bed skilled nursing facility to be located in the City of Wichita, Kansas (the “Project”), and paying costs of issuance of the Bonds; and

WHEREAS, the Issuer has acquired title to the Project and is leasing the Project to Cornerstone Assisted Living, Inc. (the “Corporation”), pursuant to the Lease Agreement, dated as of September 15, 2013 (the “2013 Lease”), by and between the Issuer and Corporation; and

WHEREAS, the Bonds are payable from the Trust Estate created pursuant to a Trust Indenture, dated as of September 15, 2013, (the “2013 Indenture”) by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas, (the “Trustee”) which Trust Estate includes a pledge of the Project and revenue received from the fees charged and Basic Rent received pursuant to the 2013 Lease; and

WHEREAS, Section 1102 of the 2013 Indenture provides that the 2013 Indenture may be amended with the consent of the Owners of 100% of the Outstanding Bonds and Section 24.1 of the 2013 Lease provides that amendments to the 2013 Lease affecting the security of Owners of the Bonds may be made with the consent of the Owners of 66% of the Outstanding Bonds; and

WHEREAS, the Corporation and Via Christi Health, Inc. (the “Bondowner”), as owner of 100% of the Outstanding Bonds, desire to amend the 2013 Indenture and 2013 Lease to release certain Vacant Land (as defined below) from the Project and Trust Estate; and

WHEREAS, the Issuer, the Corporation, and the Bondowner desire and consent to (1) amend the 2013 Indenture and the 2013 Lease in order to remove the Vacant Parcel from the Project, (2) the Issuer’s conveyance of the Vacant Land to the Corporation, and (3) authorize the execution and

delivery of (i) a First Amendment to Indenture (as hereinafter defined), (ii) a First Amendment to Lease (as hereinafter defined), (iii) a Quit Claim Deed, and (iv) a Partial Release of Lease, in connection with the forgoing.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth herein and in the Indenture and 2013 Lease.

Section 2. Authorization of First Amendment to Indenture. The Issuer is hereby authorized to execute and deliver the First Amendment to Trust Indenture, dated as of April 30, 2014 (the “First Amendment to Indenture”), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas (the “Trustee”), in substantially the form as presented and now before the governing body of the City, under which the Vacant Land will be removed from the Project and the Trust Estate.

Section 3. Authorization of First Amendment to Lease. The Issuer is hereby authorized to execute and deliver the First Amendment to Lease Agreement, dated as of April 30, 2014 (the “First Amendment to Lease”), by and between the Issuer and the Corporation, in substantially the form as presented and now before the governing body of the City, under which the Vacant Land will be removed from the Project.

Section 4. Conveyance of the Vacant Land. The Issuer is hereby authorized to convey the following described real property:

Lots 1 and 3, Block A, Ridge Port North 6<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas (the “Vacant Land”)

to the Corporation upon execution and delivery of the First Amendment to Indenture, First Amendment to Lease, a consent from the Corporation to the First Amendment to Indenture, a consent of the Bondowner to the First Amendment to Indenture and First Amendment to Lease, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance.

Section 5. Authorization of Quit Claim Deed. The Issuer is hereby authorized to execute and deliver its Quit Claim Deed for the Vacant Land to the Corporation, upon satisfaction of the conditions contained in Section 4 hereof, and in substantially the same form as the deed before the governing body on this date.

Section 6. Authorization of the Partial Release of Lease. The Issuer is hereby authorized to execute and deliver its Partial Release of Lease, dated as of April 30, 2014 (the “Partial Release of Lease”) releasing the Vacant Land from the real property leased to the Corporation pursuant to the Lease, upon satisfaction of the conditions contained in Section 4 hereof, and in substantially the same form as the deed before the governing body on this date.

Section 7. Execution of the County Documents. The Mayor, or Vice Mayor, is hereby authorized and directed to execute and deliver the First Amendment to Indenture, First Amendment to Lease, Quit Claim Deed, and Partial Release of Lease (the “City Documents”) for and on behalf of and as the act and deed of the Issuer in substantially the form as it is presented today with such minor corrections or amendments thereto as the Mayor shall approve (after consultation with counsel) which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk is hereby authorized and directed to attest the execution of the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 8. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the City Documents, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 9. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer and publication once in the official newspaper of the Issuer.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED by the governing body of the City of Wichita, Kansas this 22nd day of April, 2014.

CITY OF WICHITA, KANSAS

[seal]

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

By \_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney